

Friedman's Bureau

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Freedmen's Bureau

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The Freedmen's Bureau The Bills Before Congress To-day.

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A measure of far-reaching influence and importance to the colored race and to the country comes up before Congress to-day -- Mr. ELIOT'S bill for the establishment of a "Freedmen's Bureau," or, in other words, of a separate department of Government, controlling the interests of millions of human beings in the future. The new bill is a compound of the two bills -- the House and the Senate -- which have been up before for the settlement of this difficult matter. It has been framed mainly by Senators HOWARD and SUMNER, and Messrs. ELIOT and KELLEY, of the House.

In point of fact, this measure, if passed, will found an imperium in imperio, a separate department, responsible alone to the President, and supported by military power from him, to take charge of the abandoned and forfeited lands of the rebels, settle them with freedmen, guard the interests of these latter, aid in adjusting wages, in enforcing contracts, and in protecting these unfortunate people from injustice, and securing them their liberty. The commissioner of the bureau and his agents shall have power to establish regulations, and cause them to be enforced, for the protection of this great class, and before any civil or military court they shall act as their legal advisers. In certain cases, they can hire out the freedmen with suitable persons at a proper compensation. The assistant commissioners and agents can, under certain specified conditions, be tried by courts-martial in their respective districts.

This bill, as will be seen even in this very brief abstract, is of vast consequence. It provides a government in the future for millions of blacks, and disposes of hundreds of millions of property. So important a measure, wherein so many difficulty questions of economy and politics are settled, and involving such immense consequences, ought not to be passed in a hurry.

The problem is one of the most refined in social administration. To protect an inferior race and not sap its independence; to govern an ignorant but a most honest and deserving population; to provide against the wrongs which, in the future, the overreaching shrewdness of the Northerners and the habits of oppression of the Southerners may inflict on the freed slaves; to preserve and guard labor, secure production and repress idleness.

All these are difficult objects to attain, and we might well frame many Congressional bills before they could be reached. Manifestly, when peace is finally concluded, the United States will have a new kind of political task before it -- the securing future peace in the insurgent territory, and the enforcing the laws of Congress in a dissatisfied and disobedient community. The protection, then, of the freedmen, and the best development of their labor, will appeal to both the honor and the interests of the nation. But in the meantime, we do not think the Government is fully prepared for a separate administration of the freedmen. At the present, it seems to us more wise that this bureau should be a bureau of the War Department. All the machinery is at hand for the purpose; the power, the instrumentalities, courts, officers, systems of supply and fixed rules. There would be no clashing of military authorities; the country to be settled by the freedmen is now held by the war power, and the summary authority of the latter is a benefit in such matters as the management of the interests of freed slaves. Looking merely at persons, to no public man could the fate of the freedmen be so safely trusted as to the present Secretary of War.

We hold then Mr. ELIOT's bill defective in not making this bureau a branch of the War Department. Its provisions need also more careful revision than they have yet enjoyed at the hands of the two Houses. The fifth section seems at first reading to include "all the real estate to which the United States have title," which would give the Freedmen's Bureau control over all public lands; but this may be limited by the previous sections, to the rebel States. The thirteenth section also includes a repeal of the joint resolution of Congress, July, 1862, by which confiscation was limited to the life-estate in land of the traitor. This is too important a measure to be inclosed with a Freedman's Bill. The President himself is known to have caused the passage of this joint resolution, and a repeal of it in this law would not certainly add to the probabilities of his signing the present bill. Besides, the question of amnesty and the whole matter of confiscation, ought to come up in other connections, and be discussed by themselves.

We trust that Congress will give this grave matter thorough consideration before taking action upon it. Mr. ELIOT's bill, beside being open to the serious objections already made, is cumbersome, divergent, impracticable and ineffective in many of its details. The concise bill of Mr. SCHENCK, which we print elsewhere, is much more satisfactory in character and principle, though that also requires a revision of some of its features.

The Freedmen's Bureau Act, March 3, 1865

freedmen.umd.edu

Law Creating the Freedmen's Bureau

CHAP. XC.—*An Act to establish a Bureau for the Relief of Freedmen and Refugees.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established in the War Department, to continue during the present war of rebellion, and for one year thereafter, a bureau of refugees, freedmen, and abandoned lands, to which shall be committed, as hereinafter provided, the supervision and management of all abandoned lands, and the control of all subjects relating to refugees and freedmen from rebel states, or from any district of country within the territory embraced in the operations of the army, under such rules and regulations as may be prescribed by the head of the bureau and approved by the President. The said bureau shall be under the management and control of a commissioner to be appointed by the President, by and with the advice and consent of the Senate, whose compensation shall be three thousand dollars per annum, and such number of clerks as may be assigned to him by the Secretary of War, not exceeding one chief clerk, two of the fourth class, two of the third class, and five of the first class. And the commissioner and all persons appointed under this act, shall, before entering upon their duties, take the oath of office prescribed in an act entitled "An act to prescribe an oath of office, and for other purposes," approved July second, eighteen hundred and sixty-two, and the commissioner and the chief clerk shall, before entering upon their duties, give bonds to the treasurer of the United States, the former in the sum of fifty thousand dollars, and the latter in the sum of ten thousand dollars, conditioned for the faithful discharge of their duties respectively, with securities to be approved as sufficient by the Attorney-General, which bonds shall be filed in the office of the first comptroller of the treasury, to be by him put in suit for the benefit of any injured party upon any breach of the conditions thereof.

SEC. 2. *And be it further enacted,* That the Secretary of War may direct such issues of provisions, clothing, and fuel, as he may deem needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen and their wives and children, under such rules and regulations as he may direct.

SEC. 3. *And be it further enacted,* That the President may, by and with the advice and consent of the Senate, appoint an assistant commissioner for each of the states declared to be in insurrection, not exceeding ten in number, who shall, under the direction of the commissioner, aid in the execution of the provisions of this act; and he shall give a bond to the Treasurer of the United States, in the sum of twenty thousand dollars, in the form and manner prescribed in the first section of this act. Each of said commissioners shall receive an annual salary of two thousand five hundred dollars in full compensation for all his services. And any military officer may be detailed and assigned to duty under this act without increase of pay or allowances. The commissioner shall, before the commencement of each regular session of congress, make full report of his proceedings with exhibits of the state of his accounts to the President, who shall communicate the same to congress, and shall also make special reports whenever required to do so by the President or either house of congress; and the assistant commissioners shall make quarterly reports of their proceedings to the commissioner, and also such other special reports as from time to time may be required.

SEC. 4. *And be it further enacted,* That the commissioner, under the direction of the President, shall have authority to set apart, for the use of loyal refugees and freedmen, such tracts of land within the insurrectionary states as shall have been abandoned, or to which the United States shall have acquired title by confiscation or sale, or otherwise, and to every male citizen, whether refugee or freedman, as aforesaid, there shall be assigned not more than forty acres of such land, and the person to whom it was so assigned shall be protected in the use and enjoyment of the land for the term of three years at an annual rent not exceeding six per centum upon the value of such land, as it was appraised by the state authorities in the year eighteen hundred and sixty, for the purpose of taxation, and in case no such appraisal can be found, then the rental shall be based upon the estimated value of the land in said year, to be ascertained in such manner as the commissioner may by regulation prescribe. At the end of said term, or at any time during said term, the occupants of any parcels so assigned may purchase the land and receive such title thereto as the United States can convey, upon paying therefor the value of the land, as ascertained and fixed for the purpose of determining the annual rent aforesaid.

SEC. 5. *And be it further enacted,* That all acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

APPROVED, March 3, 1865.

U.S., Statutes at Large, Treaties, and Proclamations of the United States of America, vol. 13 (Boston, 1866), pp. 507–9.

The New York Times

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Enough Said
Now Playing

December 5, 1865

THE FREEDMEN'S BUREAU.; Necessity of Having the Best Men for Agents. Fortunate Selections for Alabama and Georgia. THE MISTAKEN COURSE OF BRIG. GEN. WILD, GEN. Tillson Succeeds Him and Restores Order. Practical Instructions for Subordinate Officers. Character and Importance of the Work on Hand. DUTIES. JURISDICTION. PUNISHMENT AND FEES.

From Our Special Correspondent.

AUGUSTA, Ga., Thursday, Nov. 23, 1865.

As I have once before stated, no unprejudiced person living can be opposed to the institution known as the Freedmen's Bureau. It is necessary, however, that the Commissioners and Assistant Commissioners, and all the officers connected with the institution, should be men of intelligence, integrity and consistency. What is to become of the freedmen and will the free-labor system be successfully put into immediate operation, are serious questions, and questions which affect the interest of the whole American people. As I remarked above, the first consideration is to appoint as Commissioners men of intelligence, integrity and consistency. From what I can learn, and I have observed clearly, Alabama and Georgia are extremely fortunate in having Gov. SWAYNE and Gen. TILLSON as Commissioners of the Freedmen, &c., in their respective States. As far as Georgia is concerned, I think there is room for but little improvement. Gen. TILLSON is a staunch patriot, a man of enlarged ideas, with a most thorough knowledge of human nature, and a practical working man. But he is no fanatic. His bureau is in splendid working order. Next to his bureau, in point of system, &c., although there are some one hundred thousand old black paupers on his hands, is Gen. SWAYNE's. First, let me tell you why a consistent man is better than a fanatic by a truthful illustration. When Gen. STEEDMAN took command of this department, there was an Acting Commissioner of the Freedmen's Bureau appointed, named WILD -- Brevet Brig.-Gen. WILD, of Massachusetts. He was, no doubt, an honest and conscientious man. But there was no practicability in him. He proposed to redress the multiplicity of slumbering wrongs which had been spent for a century upon the unfortunate blacks; he was inclined to instantaneously square up for the innumerable and incalculable cruelties inflicted upon this oppressed people for an age -- in fact, he fallaciously and mischievously went to work to educate and elevate the black man with an utter disregard of the feelings and rights of the white race, who, at least, had claims, if only as equals. He mounted a body of black men, who rode at large over the country and committed excesses of the most infamous character. The people generally suffered at the expense of every man who had a black face. A perfect reign of terror was rife, everything became unsettled, and an implacable hatred between the two races was the natural offspring. All this information I got from Gen. STEEDMAN, not from TILLSON, WILD's successor. [I may as well add here, for the information of those who are unacquainted with the sentiments of Gen. STEEDMAN, that he is not only one of the foremost of radical Generals (and has been since Copperheadism first claimed an existence,) but he is in favor of negro suffrage to a certain extent.] Well, everything Gen. STEEDMAN did in the premises was immediately undone by Gen. WILD. He not only did not cooperate with the Commanding-General, but he zealously worked to clog his efforts in all particulars. Two outrageous acts of Gen. WILD are brought to my notice. For some alleged reason or other, he caused an old gentleman weighing over two hundred pounds to be tied up by the thumbs until the entire flesh was torn from the bones. Gen. TILLSON punished a white man by imprisonment and fine a few days ago for slapping a negro in the face. Only a few days before Gen. WILD was released he arrested two of the first ladies of the county, and had them stripped naked and examined by two colored women, an indignity I have never heard of before during the war. Gen. STEEDMAN, who is known to be reliable, represented the career of WILD in its true light, both to the President and to Gen. HOWARD, and asked that he be removed and that either Gen. BAIRD or Gen. TILLSON be appointed in his place. The above I get from Gen. STEEDMAN, and he also gave me permission to use it.

Gen. TILLSON came, and, although he is chief in charge of the Freedmen's Bureau and all its ramifications, he cooperates with Gen. STEEDMAN and Provisional Governor JOHNSON, and all three, in fact, help each other. When Gen. TILLSON took charge the direst disorder prevailed, and nearly sixty thousand indolent blacks were being kept and supported by the Federal commission. He issued an order, the enforcement of which set matters to right at once.

Gen. STEEDMAN cooperates handsomely and timely by issuing an order, with the following extract:

Fourth -- Aid and assistance will be rendered by all officers in command of troops within the department to the Freedmen's Bureau, and on application of the Commissioner, or any of the Assistant Commissioners of said bureau for the Department of Georgia, to commanding officers of troops, arrests will be made on the statement of a commissioned officer over his official signature, or on the sworn statements of agents who are not commissioned officers, of persons accused of crimes and offences against freedmen. All persons arrested on the application of Commissioners or agents of the Freedmen's Bureau will be held in military custody until they can be turned over to the civil authorities, or their cases are disposed of by duly authorized courts.

Fifth -- The aged and decrepid and helpless women and children, made free by the President's Proclamasion, living in the cabins of their former masters, will, not be deprived of such homes until provision has been made for them by the State or General Government; but this protection will not extend to those able to work, who will not be permitted to remain in idleness. By command of

Major-Gen. STEEDMAN.

S.B. MOE, Brevet Colonel and A.A.G.

Gen. TILLSON has been all over the State, making speeches to the white people and talking to the black people. His speeches before the convention at Milledgeville, and to a church congregation in the same place, gave satisfaction to both races, and were remarkable for their practical good sense. He told the convention that it should pass an ordinance permitting the negro to give testimony in courts in cases of difficulty between white and black men, and the convention did so -- in fact, that is about the only praise-worthy performance that can be accredited to that collection of crab-going men. Gen. TILLSON made a speech to both blacks and whites at Athens, a few days ago, and the editor of the Savannah Republican -- a Northern man, and in favor of negro suffrage -- remarks as follows with regard to it:

"Gen. TILLSON informed his colored hearers, in the most emphatic terms, that there will not be, at Christmas or any other time, any division of lands or any other property; that if the negroes wanted homes the coming year, they must hire to those who have houses to live in and lands to cultivate; that they would be compelled to comply with the bargains they made, and that if they failed to make contracts, the bureau would make them for them and compel them to comply, even if they had to attach a ball and chain to them, as the government was determined they should not spend their time in idleness. He also cautioned the freedmen against insubordination or any sort of insolence to the whites. Another subject to which he gave great prominence was the habit of stealing -- assuring them that this would not be tolerated, and that they would be severely punished.

We do not pretend to do Justice to Gen. TILLSON's address, as we only heard a part of it, and possessed no facilities for taking notes. We have only adverted to some of the most prominent points. It ab[???]nded in sensible advice to the colored people, and although many of them were greatly disappointed, we trust that, having heard from the lips of the accredited organ of the government, they will now learn what their real status is.

We think the General is eminently qualified for the position to which he has been called, and have no doubt but that he will fill it very acceptably.

In a few days Gen. TILLSON will promulgate the following instructions to agents of the bureau appointed in compliance with directions from Gen. HOWARD, and by authority of a resolution of the Georgia State Convention, passed on the 31st day of October, 1865:

First -- They are charged with preserving the peace and maintaining order among the freed people, and enforcing contracts between them and their employers; with examining and approving or disapproving contracts and indentures of apprenticeship, and with carrying into execution, so far as practicable, the provisions of Circulars Nos. 2 and 3 from this office. They are further charged with protecting the freedmen in the enjoyment of their rights as set forth in the laws of Congress and the proclamations and orders of the President of the United States, to wit: In their freedom; in the security of their homes and persons; in the right of compensation for their labor, and the peaceable enjoyment of the fruits thereof. The attention of agents is called to paragraph 7, circular 5, from the Bureau of Refugees, Freedmen and Abandoned Lands, approved by the President of the United States, which reads as follows: "In all places where there is an interruption of civil law, or in which local courts, by reason of old codes, in violation of the freedom guaranteed by the proclamation of the President and the laws of Congress, disregard the negro's right to justice before the laws, in not allowing him to give testimony, the control of all subjects relating to refugees and freedmen, being committed to this bureau, the Assistant Commissioners will adjudicate, either themselves or through officers of their appointment; all difficulties arising between themselves, or between negroes and whites or Indians, except those in military service, so far as recognizable by military authority, and not taken cognizance of by the other tribunals, civil or military, of the United States."

Second -- Agents will immediately forward to this office one of the duplicate copies of contracts approved by them. In the absence of mail facilities, they will forward the copy intended for this office to the nearest office of the bureau or army, with the request that he transmit the same without delay. Agents are directed to disapprove all contracts presented to them, for examination which do not give the freedmen fair and reasonable compensation. It is useless to expect reliable and profitable labor for inadequate wages, or a successful working of the free-labor system.

First -- Agents may hear and determine all questions between freedmen and others when the sum involved does not exceed forty dollars, exclusive of interest. They may also take cognizance of and try offences committed by freed people, or against them, provided the punishment does not exceed a fine of fifty dollars or thirty days' imprisonment at hard labor. It is recommended that the agent associate with himself in the trial or adjudication of cases, two disinterested persons, one to be chosen by each of the parties interested. The tribunal thus constituted is authorized to hear and adjust all questions arising under contracts for labor by freedmen, or other cases involving a sum not exceeding one hundred dollars. This tribunal may also try offences committed by or against freedmen, provided the sentence imposed does not exceed one hundred and fifty dollars or imprisonment at hard labor for sixty days.

Second -- Agents will keep a concise record of all cases adjudicated by them, including the fines imposed or other punishment inflicted.

Third -- It is preferred that all cases of any importance be tried before the duly constituted civil tribunals of the State, and whenever under the

laws thereof, or by agreement of the parties and the consent of the magistrate or court, the testimony of freedmen can be admitted in cases where they are parties interested, the agent will turn them over to the civil authorities for trial. Agents will bear in mind that it is their duty to endeavor to effect this arrangement whenever possible.

Fourth -- Should the civil authorities attempt to try cases involving the rights of freed people, and refuse, under the laws and customs of this State, to hear the testimony of freedmen when offered, agents will at once, in a respectful manner, inform the magistrates that such proceedings are in violation of the orders of the President of the United States, as shown by Par. 7, Cir. 5, Bureau of R.F. and A.L., hereinbefore granted, and will further request the magistrate or court to discontinue such proceedings, and, in case of crime, to turn the offender over to the military authorities for trial. Should the request be refused, the agent will at once report the case to this office, and will further call upon the nearest officer of the bureau or military commander for assistance to suspend the execution of the sentence or judgment of such magistrate or court, until the pleasure of the military commander of the department, or the orders of the Commissioner of the Bureau at Washington in the case can be made known. Agents will, in a similar manner, interfere to prevent the infliction upon the freed people of cruel and unusual punishments, which, in a few instances, have already been ordered by the civil tribunals of the State, as such acts are in violation of the Constitution of the United States. Punishment for crimes must be the same, without distinction of color.

First -- Agents are reminded that punishment should contemplate the reparation of the injury done individuals or society, rather than the infliction of mere cruelty. Whipping having been abolished in the army and navy, is positively forbidden in the punishment of freedmen. This is not intended to deprive the master of the right to enforce the obedience of his apprentice, as set forth in Chap. 4, Par. 1844, Code of Georgia, which states that "the master of an apprentice may use the same amount of force to compel his obedience, which a father may use with his child." It is suggested that imprisonment at hard labor, solitary confinement in darkness on bread and water, labor with ball and chain, or in chain gang, for the benefit of the person injured, or on the public highways, or some such practicable and reasonable punishment, will amply suffice to enforce compliance with contracts, and punish misconduct and lessen crime; that the example afforded by such punishments, will become widely known, and exert a most salutary influence. In case an offender resist the authority of an agent, and refuse to be arrested, the agent is authorized to accept the services or citizens who may be willing to aid him as a posse comitatus. Should the force prove insufficient, the agent will call upon the nearest military commander for aid to make the arrest.

Second -- Agents will be entitled to receive the following fees for their services from the employer, or master, as follows: For examining and approving or disapproving a contract for ten persons or less, one dollar, and for each additional person, five cents; for examining and approving or disapproving an indenture of apprenticeship, one dollar. For other official acts and services, the same fee allowed by the code of Georgia to Justices of the peace, ordinaries and other officers for similar or parallel services. Fees will be paid by the party or parties in whose behalf the services are rendered, or by whose misconduct it becomes necessary. Should the laborer be unable to pay the fee, then the employer shall pay such fee, and the same shall be charged against the wages of the laborer. Where crimes are committed against freedmen, or wrongs practiced upon them by persons without means, the agent's fees for his services in bringing such persons to justice will be paid from the fund arising from fines imposed for cruelties practiced on freedmen.

Third -- Agents are directed to consult, advise and act in concert with the nearest officer of the bureau in this State. DAVIS TILLSON.

Commissioner Freedmen's Bureau, &c.

The above plainly shows that Gen. TILLSON is a practical man, and understands the peculiar business to which he is at present paying his attention. In connection with that matter there is one thing certain: Unless planters can be made to feel comparatively certain that labor will be reliable, they will not take the risk of incurring the expense of preparing to raise crops; and unless they do raise crops, a huge majority of the freedmen will be thrown upon the charities of the State or National Government. Gen. TILLSON, foreseeing this, is bending all his efforts to convince the planters that if they will in good faith accept the condition imposed by the government, and give the freed people fair wages and kind treatment, the bureau will compel them to comply with the contract and work faithfully and well.

Great difficulty so far has been experienced, and is experienced in convincing the freed people that they must work for what they are to receive. The greater majority of them, too, are impressed with the idea that lands, mules, &c., are to be given them at Christmas, and under this delusion they have refused to make contracts for next year. Gen. TILLSON has partially nipped this thing in the bud, and thus prevented a world of suffering which the entertainment of the notion would have produced. In consequence of his efforts, planters are calling upon Gen. TILLSON daily for help, and they offer double the prices they did two months ago. From every portion of the State planters are making preparations to go on with their usual yearly operations, and a hopeful feeling among all classes is being recovered.

A resolution of the late convention gives Gen. TILLSON the right to appoint citizen agents of the bureau. That the agents of the bureau in many sections are not only the representatives of the bureau, and charged with executing its orders, but they are recognized by the State authorities, and their acts are legal and binding. The action of the convention in this matter was eminently wise, and this cooperation will prove of vast benefit to both races in all their industrial operations the ensuing year. The instructions governing agents, which I give above, have been approved by Gen. STEEDMAN and Provisional Gov. JOHNSON, which secures united and concurrent action on the part of State, National, civil and military authorities, which must necessarily be productive of good results.

I called upon Gen. TILLSON last evening, and believe him to be a clear-headed, wide-awake officer. He informed me that Gen. STEEDMAN had done all he could to assist him, and that he is making rapid improvement. The aged and infirm, and the helpless young, according to STEEDMAN's order, are being cared for by their former masters, and treated kindly and well. Throughout the whole State Gen. TILLSON has

but a little over a thousand paupers, and most of these are sick in hospitals. He says that he is bound that all able-bodied negroes shall be made to work. I asked the General if he thought a Congressional appropriation was necessary, and he said he did not. He believes that the bureau may be made self-sustaining, in order to make it self-sustaining he thinks that all real property purchased or erected by the late Confederate government should be handed over to the bureau for management. At present all such property which has not been sold by Treasury agents, is in charge of the bureau, and is being carefully preserved, leased, &c., &c. He thinks that the income from it can hereafter very profitably and legitimately be used for supporting the poor of the South.

In fact, I think the Freedmen's Bureau of Georgia is the model concern, and the one in Alabama, although considerably behind Georgia, is doing well. This is because good men are in charge. This is the last place to send a fanatic; and as instances, I will refer to the late Commissioner of that State, Gen. WILD; the late Commissioner of Louisiana, Mr. CONWAY; and the present Commissioner of South Carolina. The freedmen in the latter State have made it an illuminated hell, and the most uncontrollable disorder is rife throughout the length and breadth of that prodigal State. BENJAMIN C. TRUMAN.

The Freedmen's Bureau—Letter from General Howard.

The following letter from General O. O. HOWARD, in answer to a letter of inquiry addressed to him by Hon. O. H. DOCKERY, Chairman of the House Committee on Freedmen's Affairs, exhibits the present *status* of the Freedmen's Bureau:

WASHINGTON, D. C., April 9, 1869.

Hon. O. H. Dockery, M. C., Chairman of Committee on Freedmen's Affairs, House of Representatives:

DEAR SIR: I have received your note, and will cheerfully comply with your request.

As to the work of education among "the freedmen and refugees," I have already closed up all divisions of the Bureau except the educational work, the payment of bounties, and three hospitals—one at Vicksburg, one at Richmond, Va., and one in this district. I think a larger expenditure of money has been made in aid of school buildings in cities and villages than I would have advised with my present experience. Now that prejudice is giving way, the educational work can be extended more than heretofore into the country with comparatively small outlay, by seeking the cooperation of the people. We have already quite a corps of colored teachers, and soon will have more; and we know these can go into the country schools and be comparatively well received. I propose to have but one agent in each State hereafter, so as to save every cent I can in order to use the remainder of our appropriation for the starting of schools in places where the people have thus far been deprived of them.

I have been obliged by law to cooperate with their benevolent educational associations; and in aiding them to prepare teachers, I have been necessitated to help institutions of the higher grades. You may commit me, as you suggest, to aid the country schools more in the future, and the normal schools, academies, colleges, and universities less. But, as we still need colored teachers very much, it might not be well to tie up the Bureau completely by an amendment. I have no other object than to carry out the will of Congress on this subject.

Yours, truly,

O. O. HOWARD,

Bvt. Maj. Gen'l U. S. A., Commissioner, &c.

P. S.—You will notice by the reports schools for children of "refugees" at Fortress Monroe, Richmond, Va., Wilmington, N. C., Lookout Mountain, Tenn., and a few others. These children are all white.

O. O. H.

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THE FREEDMEN'S BUREAU.

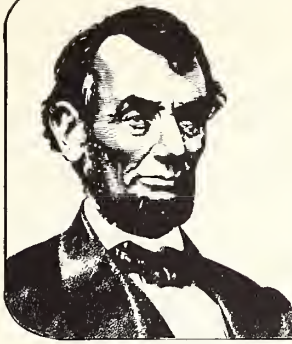
PROGRESS OF WINDING UP THE AFFAIRS OF THE BUREAU BY THE ADJUTANT-GEN- ERAL.

WASHINGTON, April 8.—The work of settling up the affairs of the late Freedmen's Bureau, by the Adjutant-General of the Army, is progressing slowly, and the expenses are steadily decreasing. It is now confined strictly to the payment of claims of colored soldiers and sailors, and their heirs, for bounty, arrears of pay, prize-money, &c., and could be moved forward more rapidly were it not that many claimants reside at remote points, or have changed their places of residence since filing their claims. The law requires that the money must be paid directly to the claimant by the disbursing officer of the Government. There are now only four offices for the payment of these claims—at New-Orleans, Memphis, Louisville, and Washington. Every effort is being made to ascertain the whereabouts of claimants, and the Adjutant-General recently addressed a circular to Congressmen from the Southern States, calling their attention to the fact that colored soldiers or sailors, who have received notice that certificates have been issued in settlement of their claims, and who have not received the amount due them, can now be paid promptly without further expense to claimants, so soon as his office shall have learned their Post Office address. In conclusion he says: "It is desirable to pay as many claimants as practicable prior to June 30 next, for after that date there may be delay in, and after a few months an entire suspension of, payments, owing to the limited appropriation made by the recent Congress, \$15,000 only having been appropriated to conduct the work of paying, instead of \$50,000 as estimated for by the War Department." It is estimated that upon the 1st of July next there will remain unpaid about 2,000 claims, which have been allowed, aggregating \$300,000, and that during the fiscal year ending June 30, 1878, there will be received from the Second Auditor, approved claims, amounting to \$241,000, making a total of \$540,000 to be paid from July 1, 1877, to June 30, 1878; but, on account of the very small appropriation to carry on this work during the next fiscal year, payments may have to be suspended. The whole number of colored soldiers mustered in during the war was 169,624; of these 86,923 were mustered out, 20,236 were discharged for physical disability; 31,806 and 14,857 deserted, 1,514 were killed in action, 1,344 were missing in action, and the others remained in service, were discharged for various causes, transferred to the Navy or other branches of the service.

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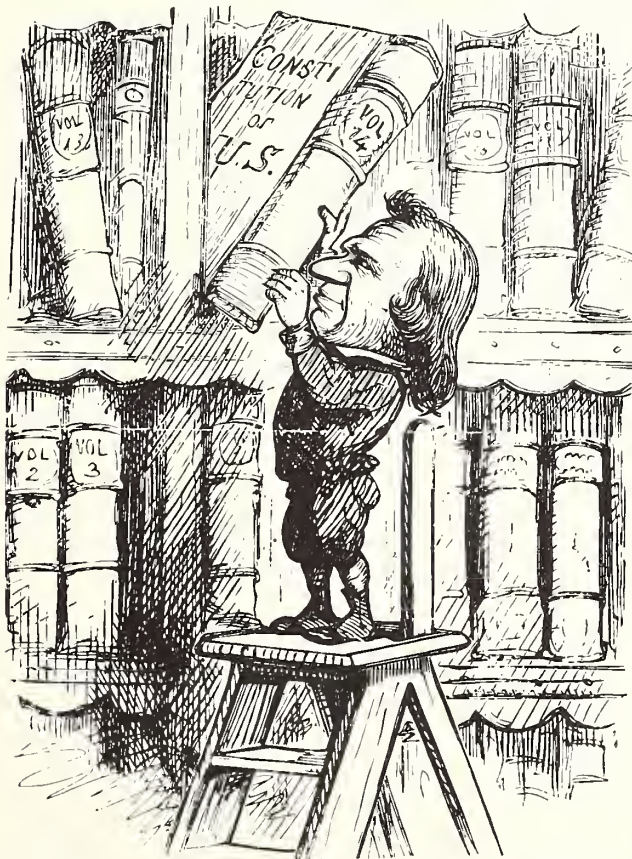
Number 1629

A NEW LOOK AT THE IMPEACHMENT OF ANDREW JOHNSON

Few periods of American history have changed as radically in the eyes of historians as the era of Reconstruction. Students of America's early national period can still refer to Henry Adams's nine-volume *History of the United States during the Administrations of Jefferson and Madison* (1891) as a work of major significance and usefulness, but few historians of Reconstruction cite anything written before 1940 except to refute it. "Only one event has resisted this historical reversal — the impeachment and trial of President Andrew Johnson," says historian Michael Les Benedict, and his new book, *The Impeachment and Trial of Andrew Johnson* (New York: W. W. Norton and Company, 1973), is an attempt to extend the trend of reversal in Reconstruction historiography to the trial of Andrew Johnson.

Changes in opinion on the Negro since the Depression prompted historians to look at Reconstruction with new

eyes, but changes in opinion on the American presidency tended to exempt the effort to remove Andrew Johnson from any fresh scrutiny. The crisis atmosphere of the New Deal and the Cold War encouraged increases in the powers of the President and encouraged even historians newly sympathetic to efforts to reconstruct the South to continue seeing any attack on the powers of the presidency with a jaundiced eye. The result was historiographical anomaly: the President who did the most to frustrate Reconstruction measures was still viewed as a maligned victim of a blatantly political, short-sighted, and malicious attempt at impeachment and removal. The vote to acquit Johnson was seen (in popular history magazines like *American History Illustrated*, for example) as "the most HEROIC act in AMERICAN history." Senator Edmund G. Ross of Kansas, a Republican who broke ranks and voted to acquit the President, "sacri-



THIS LITTLE BOY WOULD PERSIST IN HANDLING BOOKS ABOVE HIS CAPACITY.



AND THIS WAS THE DISASTROUS RESULT.

Most historians have implied that Congress did not have a constitutional leg to stand on by picturing Andrew Johnson's impeachment and trial as an attempted radical coup. *Harper's Weekly* for March 21, 1868 pictured an insignificant Johnson crushed by the Constitution, thus taking at the time of the trial the opposite view. In the month's that followed, *Harper's* cartoons changed Johnson from a pip-squeak to a monarchical usurper.

From the Lincoln National Life Foundation

ficed his political career to save the American system of government." John F. Kennedy chose Ross as one of the subjects for his *Profiles in Courage*.

How was it that the "American system of government" became so identified with the office of the presidency that impeachment (as firmly rooted in the words of the Constitution of 1787 as the presidential office itself) could be seen only as an un-American act? One need only sample the political-scientific wisdom of the early 1960's to see why historians might have been cool to impeachment. Two popular books, for example, were Richard E. Neustadt's *Presidential Power: The Politics of Leadership* (New York: John Wiley and Sons, 1960) and James MacGregor Burns's *The Deadlock of Democracy: Four-Party Politics in America* (Englewood Cliffs, New Jersey: Prentice-Hall, 1963).

Neustadt has been called the Machiavelli for the American Prince. Neustadt wrote a book analyzing the powers of the President because, in his words, "To make the most of power for himself a President must know what it is made of." The desire to increase presidential powers led to a lack of interest in constitutional restraints on executive power. Citing as an example of executive power President Truman's seven-week seizure of the steel mills in 1952 "without statutory sanction," Neustadt argued that one of the factors "making for compliance with a President's request is the sense that what he wants is his by right. The steelworkers assumed, as Truman did, that he had ample constitutional authority to seize and operate the mills." The constitutional contradiction evoked no response whatever from Neustadt.

James MacGregor Burns argued in his book that there were really four parties in America, congressional Republican and Democratic parties and presidential Republican and Democratic parties. The congressional Republicans and Democrats, elected on local issues in safe gerrymandered districts frequently in off-year elections, had more in common with each other than with the presidential wing of their own parties geared for election on well-publicized national platforms in national elections. Burns pictured the congressional/presidential split as a split between small-town lawyers and big-city lawyers, independent entrepreneurs and big businessmen, state legislators and intellectuals. Burns (himself a Democrat) was more interested in weakening the congressional at the expense of the presidential party than the Republican at the expense of the Democratic party. In his single-minded zeal for the presidency, Burns revealed the same blindness to constitutional issues that Neustadt had shown. Burns's hero "must be willing to take sweeping action, no matter how controversial, and then to appeal to the electorate for a majority, as Jefferson did in 1804 after the Louisiana Purchase. . . ." At the time, Jefferson had been rather embarrassed by the whole affair. He thought himself that the action was unconstitutional because there was no provision about acquiring territory in the United States Constitution. But like Truman's act for Neustadt, Jefferson's evoked little comment from Burns except his saying that the Louisiana Purchase was "magnificently vindicated in history." Burns and Neustadt were intent on increasing presidential power, constitutional balance was their enemy, and constitutional scruple never occurred to them.

In such an atmosphere as that of the era of Neustadt and Burns, no one was likely to view a major congressional effort to limit the actions of an executive as a vital subject for historical investigation. It is little wonder that, as Benedict points out, there has been only one moderately detailed treatment of Johnson's impeachment, and that was done seventy years ago. But Benedict was the student of a legal and constitutional historian (Harold M. Hyman) and was trained to investigate those very issues which seemed like non-issues to Burns and Neustadt.

The major revisionist point of Benedict's book is simple: "To a large extent, the prejudicial view of impeachment most historians have adopted is based on the mistaken notion that government officials can be impeached only for actual criminal offenses indictable in regular courts. However, numerous studies of impeachment have contradicted this widely held conviction, sustaining the position adopted by the more radical Republicans during the crisis." Others, like historian Gaddis Smith, disagree and assert that a President's "high crimes and misdemeanors" must be essentially

crimes and high ones at that to merit impeachment (see "The American Way of Impeachment," *New York Times Magazine*, May 27, 1973, page 53). In fact, it matters little for the purposes of his book whether Benedict is right about the abstract meaning of impeachment or not, and his claims to constitutional infallibility seem out of place in a history book. What is important is the historical meaning of impeachment in 1868. Fortunately, Benedict does make a case in regard to the common understanding of impeachment in 1868; it rests on these three points:

(1) English legal precedents were of little weight because in England any citizen could be impeached by the legislature; confining impeachment to indictable crimes in England was a protection of individual citizens' liberties from the government. In America, impeachment was applicable only to office holders (and specifically forbidden by the Constitution from use against private citizens) and was meant itself as a protection of the citizens from the government. In England, impeachment was meant to punish crime, and the criminal could be sentenced to death by the House of Lords. In America, impeachment could lead only to removal from office and permanent disqualification from office-holding.

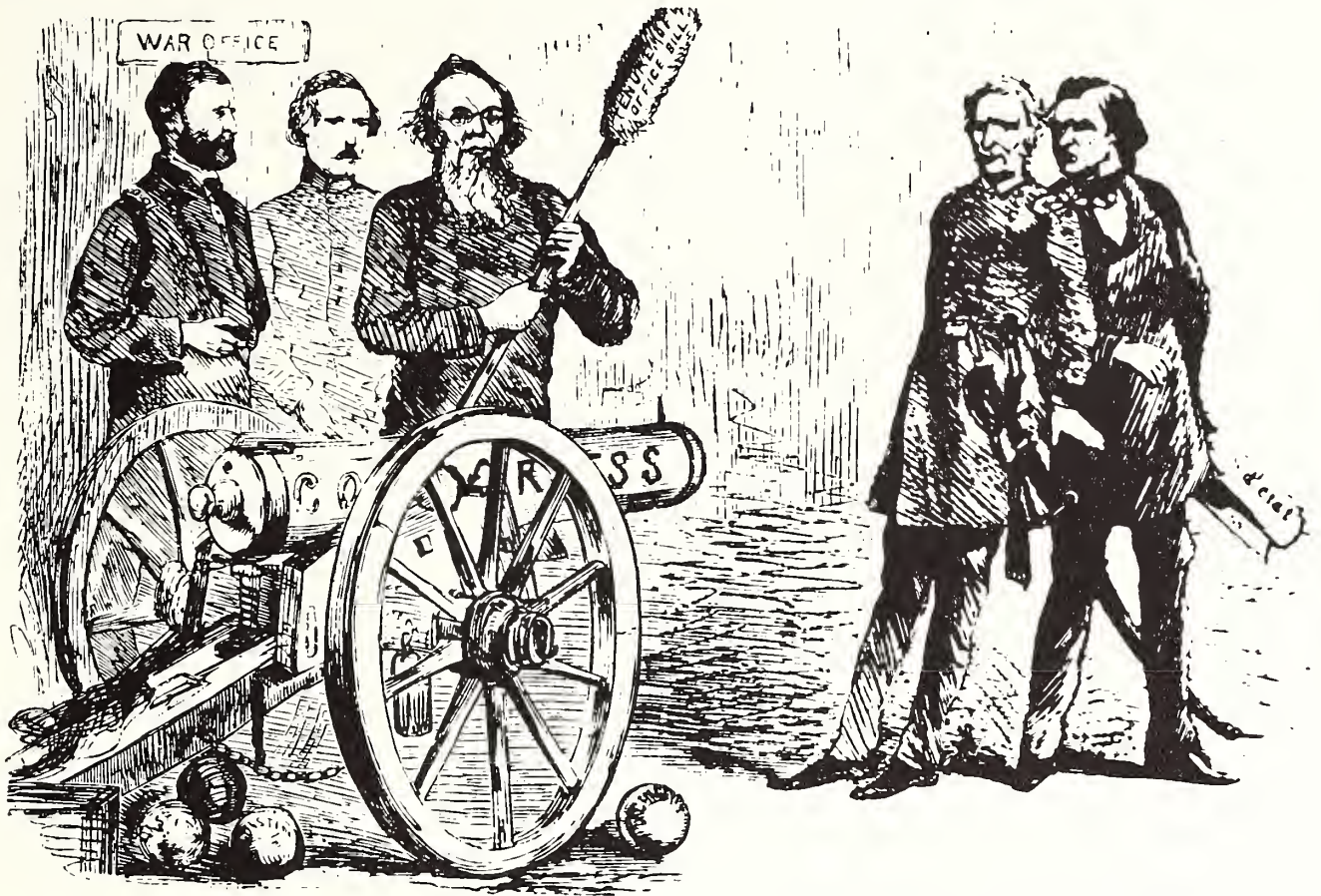
(2) American precedents were few and far between, and they were mixed in import. On the one hand, the House of Representatives "had limited its accusations to indictable crimes in at most one of the five impeachments it had presented to the Senate before 1867." On the other hand, the Senate had decided innocence of the House's charges in two cases because none of the articles of impeachment named an indictable crime. On one occasion, however, the Senate had removed a judge for drunkenness and profanity in the courtroom, rather than for indictable crimes.

(3) With English experience clearly irrelevant and the relevant American precedents simply unclear in meaning, Americans in 1868 had to rely on the constitutional commentators and theoreticians of the day. Here Benedict points to the key historical factor, "the unanimity with which the great American constitutional commentators had upheld the broad view of the impeachment power." "Story, Duer, Kent, Rawle, and the authors of *The Federalist*," says Benedict, ". . . recognized that the danger to liberty and the efficient workings of government lay not in the possibility that the president or lesser executive officers might act illegally, but rather that they might abuse the powers the Constitution had delegated to them."

The latter point is crucial. If it was conventional legal and constitutional wisdom to believe presidents impeachable for abuse of powers constitutionally granted, then impeachment for actions short of indictable crimes was not necessarily a radical act. Thus the so-called Radicals of what used to be called "Radical Reconstruction" were not radical at all in constitutional matters. The constitutional wisdom of Kent and Story has been called many things, but never, one imagines, "radical."

Benedict marshals much more evidence to prove that impeachment was, like much of the rest of "Radical Reconstruction," really the result of compromises which pleased Republican moderates (and gained their support) and of intransigent opposition from Andrew Johnson. In many ways, this evidence constitutes the most persuasive part of the book.

Gaddis Smith in the article mentioned above sets the stage for his discussion of the Johnson impeachment episode by saying that the "Radical Republicans . . . gained full control of Congress after the 1866 elections." He implies that everything that followed — including impeachment — was a radical move. In fact, the House's impeachment resolution did not follow a Radical capture of the House in 1866 but rather a sound thrashing of the Radicals in the 1867 elections. The Republican party, on record as favoring impartial suffrage and on the ballot in three Northern states with proposals to eliminate white-only constitutional restrictions on the franchise, lost votes in practically every state. The Republican vote in Massachusetts, for example, dropped from 77 per cent (1866) to 58 per cent (1867), and in Maryland from 40 per cent to 25 per cent. The Democrats took California by arguing that Republican policies would lead to enfranchising orientals. They took Ohio's state legislature too, thus blasting the presidential hopes of Ohio's Radical Republican Senator Benjamin F. Wade. For the fence-



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Two weeks before the cartoon pictured on page one, *Harper's* had drawn a more sinister Johnson carrying plans for a "coup d'etat" in his hands. The congressional cannon which Edwin M. Stanton and Ulysses S. Grant aim at Johnson is loaded with cannonballs labeled "constitution." Johnson's attempts to use the patronage to help not the Republican party but a personal following may have caused some Republicans to fear a *coup d'etat* by the President.

sitting Republican politician, the message was clear: he had better moderate his policies in the direction of the Democrats. And it was the fence-sitters who counted, for the movement to impeach had been stopped totally by conservative votes in the July, 1867 session of Congress. The impeachment resolution did not pass until February, 1868, when the fence-sitters joined the Radicals because Johnson had openly violated a law, the Tenure of Office Act.

That the key voters awaited Johnson's overt violation of a law is, to be sure, further proof of Republican moderation on impeachment. Yet it is not a little disruptive of Benedict's argument concerning the mid-century legal understanding of impeachment that so many Republican congressmen — who surely must have gained their legal understanding from the same constitutional commentators the others read — awaited an indictable crime. Benedict chooses not to wrestle with this anomaly, but it could be resolved easily if Benedict confined his argument to proving that impeachment was a moderate move rather than that it was also legitimate or right one. The impeachment resolutions themselves were clearly the result of a compromise and not of a radical *coup*, for they cited both indictable crime and vaguer political abuses.

Gaddis Smith cites Benedict's study of Johnson's presidential actions as though it were new evidence of illegal and therefore impeachable acts, but for Benedict it is important only to set the scene for impeachment. He is not trying to find other illegal things for which Johnson could have been indicted, because he does not believe he needs to. Impeachment, he feels, was widely understood as a remedy for abuse of constitutional powers the President did have. All Benedict wants to show is that impeachment was a part of Reconstruction politics and not an embarrassing sideshow or a separate factional power play.

In delineating the Reconstruction context of impeachment, Benedict is again very effective. Largely through his unqualified right to pardon and through his natural powers to enforce the laws of Congress as he chose, President Johnson almost single-handedly dismantled Congress's Reconstruction program. He ignored the Test Oath Act and appointed former Confederates as provisional governors in several states. Treasury Secretary Hugh McCulloch (a hold-over Lincoln appointee) ignored the law also by appointing men who could not take the loyalty oath to Treasury jobs in the South (Reconstruction, as it had been initiated by President Lincoln in Tennessee, Arkansas, and Louisiana had been built around provisional governors and federal appointees who had always been loyal to the Union). Attorney General James Speed (another Lincoln hold-over) halted proceedings to sell confiscated lands in Florida and Virginia despite the intent of Congress's Confiscation Act. Despite the Freedmen's Bureau Bill establishing Freedmen's Bureau Courts (which were a form of military commission), Johnson proclaimed an end to trials by military commission where civil courts were in operation. The difference, of course, was that the civil courts were local and Southern; the military courts were federal and Northern. A freedman could anticipate very different treatment in the one rather than the other. This is Benedict's conclusion: "... within a year of Andrew Johnson's elevation to the presidency, the preliminary Reconstruction program enacted by Congress lay in utter ruin. In pursuing his own policy, Johnson had destroyed it, without violating a law, using only his constitutional powers as president of the United States." Such obstruction brought confrontation.

Benedict is also very effective in reminding us of what we should have suspected but nonetheless ignored during the long years of executive ascendancy since the New

Deal. It was not necessarily abstract political-scientific views of the nature of the presidency but practical politics that dictated much of the outcome of the impeachment movement. High-minded regard for constitutional checks and balances might have dictated one course for congressmen; practical politics reminded them to think first of who would in fact occupy the office next were Johnson actually removed. Since there was no vice-president, that honor would have fallen to Benjamin Wade, the president *pro tempore* of the Senate. Wade was a friend of a high protective tariff and an enemy of Hugh McCulloch's policy of contracting the currency inflated by Civil War greenback financing. Wade was therefore *persona non grata* to the hard-money, free-trade wing of the Republican party. The prospect of President Wade was as powerful a deterrent to impeachment as the prospect of a weakened presidency. To remember this is to put in proper perspective those history books which see only the votes for conviction as politically motivated.

Moreover, conservative Republicans opposed Wade's succession for party as well as factional reasons. To launch a man of such well-known economic convictions to the leadership of the party would be to split a party made up of former free-trading Democrats and former high-tariff Whigs by focusing on the issues that divided the party rather than the issues (loyalty of returning governments and safety of the freedmen) which united it. Such worries were exacerbated by rumors that Wade would appoint E. B. Ward, a leading opponent of contraction of the currency, as Secretary of the Treasury and Benjamin Butler as Secretary of State. Moreover, other votes to acquit were at least as thoroughly motivated by politics. The Democrats and Johnson conservatives who "would under no circumstances have voted to remove the President and turn the office over to the Republicans" were in fact "more consistently antipathetic to the entire proceeding than even the most hostile Republicans."

Accusing only one side of political motivation (rather than seeking to identify the political content of the beliefs of both those in favor of acquittal and those in favor of conviction) ignores too many stubborn facts. For example, more than half of the House Republicans who voted for impeachment had refused to do so at some time in the past. The impeachment resolution had failed previously before it passed in February, 1868, when the moderates joined the Radicals because Johnson had openly violated a law. Senator Edmunds had voted *against* a resolution declaring that the President had acted contrary to law in removing Secretary of War Stanton from office. But he decided Johnson was guilty, so voted in the end, and said that had Wade not been president *pro tem* of the Senate, moderates like William Pitt Fessenden would have reached the same conclusion. In other words, some men were simply convinced by the lawyers' arguments during the trial, as any juror might be.

In the end Benedict's revisionist point of view brings new relevance to the actual proceedings and arguments at Johnson's trial. Some of these arguments persuaded some men how to vote. Many of the arguments, as Benedict outlines them, were powerful. Was the Senate a court bound by the rules, precedents, and technicalities of the common law, or were the Senators, as Benjamin Butler (one of the managers of the prosecution's case) put it, "a law unto yourselves, bound only by the natural principles of equity and justice . . ."? The common law risked the escape of the guilty in order to protect the rights of the innocent; in the long run the risk was better for society as a whole. Was society as a whole better served by risking the escape of the guilty in impeachment proceedings where the guilty had such great powers they could affect the life of every member of society? Had Johnson violated a law or violated an unconstitutional law which was null? When the prosecutors tried to answer that question, they undermined their own case. To argue about it was to show that the President, right or wrong in his actions, had done something about which there *could* be argument. He had made a mistake, perhaps, but a mistake is not a *criminal* act because it does not show criminal *intent*. Granted a President could not be the sole person to decide whether a law was constitutional and therefore to be enforced

by the executive, was it not the case that the President could disobey a law (in order to bring a case before the Supreme Court) which limited his authority and thus left only the President himself with an interest in challenging it? The questions were complicated, the arguments by the lawyers were of high quality, and there were many more issues than these, questions of fact, questions of admissibility of evidence, and other questions of law. The lawyers did not treat the case as though its outcome was predetermined by political prejudice.

Benedict's analysis of the votes in the Johnson verdict may surprise the reader, but that and many other pleasant surprises await the reader of *The Impeachment and Trial of Andrew Johnson*. It is a good book, it argues persuasively, it is on the whole well written, and its subject is long overdue for study. It is to be regretted, however, that the book lacks a leisurely pace. On page 143, for example, Benedict says: "There were numerous minor elements in the House's case for impeachment, and a complete analysis of them would require a longer monograph than I have undertaken here. Nonetheless, that is a job that needs doing." Then why, I was at first tempted to say, did you not do the job yourself? The answer (in many similar cases at least) is that the inflexible demands for publication for tenure (and publishers' demands on book length) tend to put a premium on the sort of book that takes two or three years to write and research and to make the book that is ten or twelve years in the writing a liability to one's career. To blame Benedict for cutting short the effort would be to blame a victim for the system that victimizes.

A fault which can be traced to the author, however, is a certain lack of balance in the book. I do not mean that his case is too one-sided, for when one is fighting seventy years of American historiography and an orthodoxy of the sort championed by James MacGregor Burns and Richard Neustadt, one need not bend over backwards to present the case for the other side. The other side's case is all we have heard for years; we all know it by heart whether we have read a book on Andrew Johnson or not. The lack of balance to which I refer is the failure to give the proper weight to the more important strands of his own argument. If the "prejudicial view of impeachment" stems from "the mistaken notion that government officials can be impeached only for actual criminal offenses indictable in regular courts," then Benedict's whole effort at revision rests on proof that this is not the case, or rather, that such was not necessarily the belief of everyone in the nineteenth century. Yet when Benedict makes his case on this crucial point, we get the same hurried rush through the evidence.

It is crucial to Benedict's case to prove "the unanimity with which the great American constitutional commentators had upheld the broad view of the impeachment power." Yet his proof consists of a quotation from a constitutional commentator, John Norton Pomeroy, whose book was copyrighted the year of Johnson's impeachment. There is a quote also from William Rawle, but the opinions of Kent and Story are not quoted or even paraphrased; they are merely page numbers in a footnote.

It would have been much more convincing to render a more leisurely treatment of the historic views of the impeachment power even if it had to come at the expense of the several tables and charts of votes that dot the book but do not add immensely to the argument (partly because they are rather poorly placed and lack an easy-to-follow legend to explain their import). In this case, argumentative power was sacrificed to book size and to the fashionableness of modern voting analysis.

I do not mean to intimate, however, that the book is a brief written for the current moment or even a book written because the subject is timely. Such is clearly *not* the case. The scholarly tone and the massive documentation are proof that the book was in the works long before impeachment became a subject for television discussions. If that is not proof enough, then an explanatory blurb on Professor Benedict that appeared in the December, 1972 issue of *Civil War History* is certainly proof, for he is there described already as the author of "a forthcoming volume, *The Impeachment and Trial of Andrew Johnson*." It is a volume worth reading now, to be sure, but it is also a volume that will be read by historians of Reconstruction for years to come.



Lincoln Lore

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Robert Dale Owen, "an intelligent, disinterested, and patriotic gentleman."

By the middle of the twentieth century, the study of slavery was thought by many to have reached a stalemate. Slaves did not leave their own written record, and the record written by their masters and by outside travellers, visitors, and observers had been milked for all it was worth. In every case, this indirect evidence boiled down to a matter of interpretation. Plantation records, for example, frequently contained complaints that slaves were sloppy workers, that they abused the animals, that they broke a lot of hoes. Historians of one political or social persuasion said that this was a form of sabotage by which slaves showed their resentment at what they knew to be their unnatural and unjust condition. Historians of another persuasion claimed that it meant that slave labor was simply unskilled and inefficient. The argument could go on endlessly because the body of fact on which the interpretation was based did not grow. There was very little new information after Ulrich B. Phillips did his pioneering work from plantation records in the 1910's.

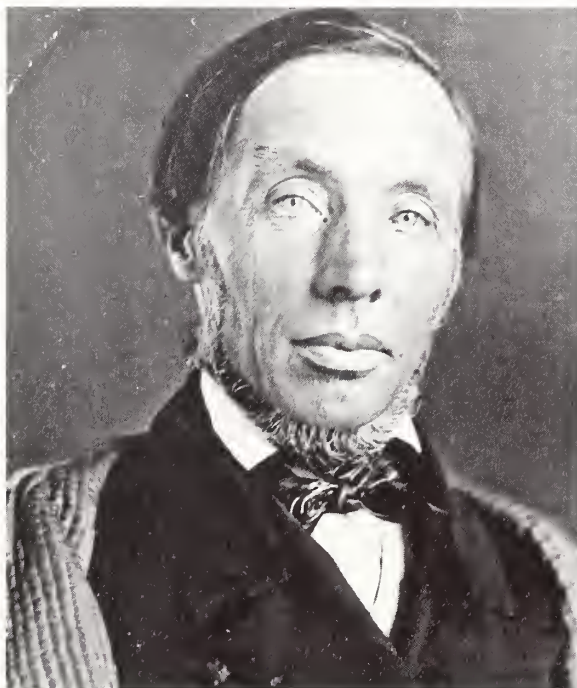
Since that time, however, there have been two significant developments which have made the study of slavery livelier than ever. The first came with the publication in 1947 of Frank Tannenbaum's slender little volume entitled *Slave and Citizen* (New York: Knopf). Tannenbaum's idea was that something new could be said about slavery if it was examined on a comparative basis. That is, the same old facts that had been argued about for so long could be seen in a new and revealing light if they were compared to the facts from slave cultures other than that of the antebellum southern United States. The result of the application of this aperçu to studies of slavery was, by and large, the judgment that North American slavery was the harshest ever practiced in the world, that the black man in antebellum Mississippi, say, was unique in world history because of the degree to which his status had been reduced to that of a chattel, the master's private property. The North American slave had really become a thing, in short. By contrast, Brazilian slaves had lived in a Catholic country with a feudal heritage (via Spain); and they benefited from the relative strength that hoary institutions traditionally exercised over the efforts of individual citizens. The church demanded that slave marriages be solemnized, the parish priest visited the plantations to hear of abuses of slaves by masters, the punishments an

owner could mete out to his private property were limited by law, and in general the will of the individual was restrained from reducing the slave's humanity to chattel-dom.

The sort of insight that could be gained from old forms of evidence is illustrated by Stanley Elkins's controversial book, *Slavery* (Chicago: University of Chicago Press, 1959). He addressed the old problem of whether broken hoes meant sabotage or slovenliness by invoking the comparative perspective. North American slavery was so brutal that it resembled the conditions in Nazi concentration camps, said Elkins. In those camps there had been little rebelliousness or sabotage because the inmates had been "infantilized"; they had become virtual children with no will to resist paternal authority. This explanation accounted for the relative infrequency of slave revolts in the United States as compared to Brazil. Rebellion feeds on hope. Ironically therefore, Brazil experienced countless huge uprisings, whereas the United States had only three. The "revolts that actually did occur," said Elkins of the North American experience, "were in no instance planned by plantation laborers but rather by

Negroes whose qualities of leadership were developed well outside the full coercions of the plantation authority-system. Gabriel, who led the revolt in 1800, was a blacksmith who lived a few miles outside Richmond; Denmark Vesey, leading spirit of the 1822 plot at Charleston, was a freed Negro artisan who had been born in Africa and served several years aboard a slave-trading vessel; and Nat Turner, the Virginia slave who fomented the massacre of 1831, was a literate preacher of recognized intelligence."

The second great development in recent studies of slavery was less a result of historical insight than of technology. Historians have begun to apply modern tools of quantification to the study of slavery. Thus they can give proper statistical weight to the evidence chosen selectively by previous historians, and they can look at the institution itself more than at the description of the institution left by masters and outside observers. The results are just beginning to appear, and some of them are quite startling. Robert William Fogel and Stanley L. Engerman, for example, argue in *Time on the Cross: The Economics of American Negro Slavery* (Boston: Little, Brown, 1974) that the slave family was stable and patriarchal, that such families were



Courtesy of the Indiana Historical Society Library

FIGURE 1. Robert Dale Owen (1801-1877) was born in Glasgow but came to the United States when he was twenty-four. For years he lived at New Harmony, Indiana, where his father had established an experimental social community. In his youth, Owen worked for liberal divorce laws, equalization of wealth, and free thought, but his zeal to abolish slavery came only late in his life.

rarely shattered by the domestic slave trade, that fully 25 percent of male slaves were managers and artisans rather than field hands, that slave agriculture was profitable and more efficient than free agriculture, and that it was so because the black laborer was a good laborer and not a saboteur or slovenly incompetent.

One particular aspect of the current mania for figures has been a reevaluation of the incidence and effects of the African slave trade. The result was simple: Brazilian and West Indian slavery was sustained throughout their careers by fresh importations of African slaves. In the United States, slavery grew by natural increase. After 1808, the trade was forbidden by the constitution, and most states outlawed it well before that date. The implications of these results, however, are complicated. For one thing, they seem to reverse the insights of the original practitioners of the comparative approach: hoary institutions or no, other slave cultures seem to have burned up their slaves in five to seven years and simply ordered new ones for replacement. In the United States, on the other hand, slaves were treated paternalistically enough for the system to thrive by the natural increase of the slave population. For another, the relative incidence of slave revolts seems to be a function of acculturation rather than harshness of the regime. Africans revolted, and Americans (for most slaves in the nineteenth century United States were second, third, and fourth generation Americans) did not.

The newness and sophistication of these arguments about the nature of slavery make all the more remarkable the arguments in a book which preceded by a century the recent musings on the comparative descriptions of and the impact of the slave trade on slavery in the Western Hemisphere. The book is *The Wrong of Slavery*, [the *Right of Emancipation*], and *The Future of the African Race in the United States* (Philadelphia: J.B. Lippincott, 1864). The author of the book was Robert Dale Owen, son of the famous British utopian reformer and former Democratic Congressman from Indiana.

The great British philanthropist's son had long ago compromised his utopian inheritance to the vanishing point, and he had never before been an enthusiast of the black man's cause. Richard William Leopold's *Robert Dale Owen: A Biography* (Cambridge: Harvard University Press, 1940) is a portrait of a good Democrat who shared the party's typical enthusiasms for the annexation of Texas and the Mexican War, and its detestation of Negroes and abolitionists. When Indiana wrote a new state constitution in the winter of 1850-1851, Robert Dale Owen, delegate to the constitutional convention, reported the provision which forbade Negroes and mulattoes from settling in Indiana or buying real estate there. For those Negroes unfortunate enough to be left in the state after the constitutional provision passed (as it did), Owen urged a liberal appropriation of funds for "colonization," that is, voluntary exportation out of the state and to Africa.

During the Civil War, however, Owen began to run with a different crowd. As a loyal Democrat who supported the war and as a sixty-year-old man whose more partisan past seemed behind him, Owen gained an appointment on May 30, 1861 by Governor Oliver P. Morton as Indiana's purchasing agent for ordnance. This brought him into immediate contact with a governor who was a zealous supporter of the Republican cause, and it brought him into eventual contact with the War Department in Washington and its head, Edwin M. Stanton. Owen impressed Stanton enough that less than a year after his Indiana appointment—on March 13, 1862—Stanton appointed him and another War Democrat, Joseph Holt of Kentucky, as auditors of "all contracts, orders, and claims on the War Department, in respect to ordnance, arms, and ammunition."

By the autumn of 1862, Owen was badgering the administration with advice, particularly with the advice that, to avoid a military coup d'état, Lincoln should emancipate the slaves by virtue of his power as Commander-in-Chief. He also urged Congressional legislation to end slavery in the Border States by a policy of federally compensated emancipation. A year and three days after his first appointment by Stanton—on March 16, 1863—Owen had proved to be a sufficiently promising pupil of Republican reform ideas that Stanton appointed him, along with James McKaye and Samuel Gridley Howe, to the American Freedmen's Inquiry Commission.

The American Freedmen's Inquiry Commission, according to James M. McPherson's *The Struggle for Equality: Abolitionists and the Negro in the Civil War and Reconstruction* (Princeton: Princeton University Press, 1964), was for the

most part the abolitionists' brain-child. For some time even before the Emancipation Proclamation they had advocated a federal bureau to formulate and administer a uniform national policy towards the freedmen. Philadelphia abolitionist J. Miller McKim was particularly insistent that a commission should be established to issue a report on the status of the freedmen. Thaddeus Stevens wanted a congressional commission, but Charles Sumner and Stanton thought an executive commission could be set up more quietly without debate in Congress. Stanton purposely avoided appointing an abolitionist of the Garrison school and made the moderate Democrat Owen the chairman of the commission.

Owen wrote the reports of the American Freedmen's Inquiry Commission. The final report was submitted in May of 1864, after months of travel, hearing testimony, and consultation with men who had been dealing with the problem to date. President Lincoln does not seem to have had a direct hand in the appointment of the commission, though of course he was aware of its work and aided it. On one particular occasion, Chaplain John Eaton, who had served with Grant in Mississippi and to whom Grant had disclosed his plan to colonize certain plantations with freedmen to "become a Negro paradise," called on President Lincoln in the summer of 1863. Eaton found Lincoln "keen in his investigation of the personal traits of certain Negroes, the circumstances of whose lives had brought them into prominence. He questioned me in regard to those who were coming into our lines: What was their object; how far did they understand the changes that were coming to them, and what were they able to do for themselves? At this time, it must be remembered, the Negro character was a subject about which, among Northerners, at least, the wildest conjectures were current." At the end of their second meeting the next day, Lincoln informed Eaton "that he desired me to report to a committee, composed of Dr. S.G. Howe of Boston, the well-known philanthropist, Colonel McKaye of New York, and Robert Dale Owen of Indiana, a former member of Congress. Mr. Lincoln had previously told me of this body, which, he said, had been appointed to consider the entire subject of our policy toward the Negro in the present emergency. The Commission—known officially as the American Freedmen Inquiry Commission—had recently been in conference in New York, and the President desired me to go there and meet them."

Owen's principal work for the commission was drafting its reports and doing considerable research into what today would be called black history. The final report, slightly clarified and modified, formed the substance of Owen's book, *The Wrong of Slavery*, and it was in part the embodiment of Owen's historical research.

Owen was diligent in his research. The book has footnotes in Spanish, French, and Latin. He borrowed the library of



From the Indiana Division, Indiana State Library, Indianapolis

FIGURE 2. Oliver P. Morton

Benjamin P. Hunt, a Philadelphian whose library was "rich in works on West Indian history and emancipation." The result was a remarkable section, comprising about half of the book, which explored the origins of slavery in the Western Hemisphere.

Owen attributed the origins of the institution largely to Spain and to the misguided philanthropy of Bartolomeo de las Casas, a Dominican monk who thought that the miseries of the enslaved Indians in Hispaniola could be alleviated by substituting "a hardier race," the Negroes from the Portuguese settlements on the African coast, as the slaves of the Spanish. Owen attributed slavery to the Spanish desire for gold and labor to mine it, but he stopped short of urging what some recent American historians have suggested: the seventeenth-century English colonists read Spanish books to know how to cope with the New World, therefore they expected to employ the Indians for labor, and they substituted blacks as early as 1619 when they found that the Indians were too recalcitrant.

On the origins of slavery in what would become the United States, Owen was vague. All he did was to repeat the charge that had become the standard salve of the American conscience: that Great Britain had somehow forced slavery on the American colonies. This charge was lifted from George Bancroft's monumental *History of the United States* and allowed Owen to evade the issue by such indirect statements as this one: "The agency of the British Government in fastening slavery upon the Continental colonies is well known." Bancroft had seized upon late-eighteenth-century protests by colonial legislatures against the continuing importation of African slaves into the colonies. By that time, of course, fresh importations decreased the value of the slaves already held in the colonies; moreover, the tobacco industry suffered from chronic overproduction which vastly depressed the price. Bancroft managed to put a more humanitarian face on what was nakedly an argument from the elite's economic self-interest by saying that the "English Continental colonies [Owen quoted Bancroft's passage] were, in the aggregate, always opposed to the African slave-trade." Owen did not question Bancroft's "always," and, though born in Great Britain himself, he concluded that "In the entire history of Great Britain there is scarcely a more disgraceful page."

All of this was conventional, but Owen's research brought him to less conventional and to less convenient conclusions. Making rough computations of the volume of the slave trade from the available sources, Owen was left with this very tough fact to interpret: "THE HALF-MILLION SHIPPED FOR NORTH AMERICA HAVE INCREASED NEARLY NINE-FOLD,—being represented in 1860 by a population exceeding four millions four hundred thousand; while THE FIFTEEN MILLIONS SENT TO THE WEST INDIAN COLONIES AND TO SOUTHERN [i.e., South] AMERICA HAVE DIMINISHED, FROM AGE TO AGE, until they are represented now by LESS THAN HALF THEIR ORIGINAL NUMBER!" Although he arrived at the same basic insight that modern writers have reached, Owen considerably overestimated the number of slaves imported into the West Indies and Latin America; his estimate for that portion of the world alone is some five million higher than the most recent estimates of the total number of slave importations including the United States. These recent estimates, however, admit to the possibility of an error as great as 20 percent. If they erred low, then Owen was some 4.2 million off. Nevertheless, Owen showed an interest in the broad view of slavery as a more than national phenomenon. The disparity in numbers between the United States's experience and that of the other areas in the Western Hemisphere was so great that even a gross computational error like Owen's could not miss the basic point: a tiny island like Jamaica or Cuba imported more slaves than the whole of the United States! There was a fundamental difference in the nature of slave societies, and it was a difference which it was *not* convenient for Owen to take note of.

After all, Owen wrote in the midst of the Civil War at the behest and in the pay of an administration that was by that time committed by a fait accompli to the policy of emancipation and to a war against slavery. The second of the three sections of Owen's book was in fact a justification of administration emancipation policy from the standpoint of constitutional law, international law, and (at times) natural justice. It was not particularly helpful to find fairly compelling evidence that slavery as practiced in the United States was a good deal more benign than slavery as practiced anywhere else in the Western World.

Owen did in fact balk at the inevitable conclusion, but he did not blink it away. Chapter IX he entitled "Touching the Causes of Certain Marvellous Results," and there he grappled with his "results so extraordinary, at first sight so incredible,—and, in effect, even when thoroughly examined, so difficult of satisfactory explanation,—that I have devoted much time and labor to the critical revision of the materials whence my conclusions are drawn, before venturing to place them on record." The answer was not to be found "solely in the greater humanity with which the negroes of the United States have been treated, as compared with those of other slave countries." He attributed the poor rate of natural increase in other cultures to the disparity in sexes caused by relying heavily on the African slave trade. Such reliance brought greater numbers of males than females, but, Owen had to admit, female slaves were available and would have been supplied had the planters asked for them. At least the cruelty of maintaining a regime short of women had to be attributed to the other cultures, as did the cruelty which has so caught the attention of recent scholars:

The slave-trade had another, still more sinister, influence. It is beyond a doubt that wherever that trade prevailed it tended directly to aggravate the condition and to shorten the lives of the plantation slaves. This happened because it increased the temptation to cruelty and overwork.

The thorough Owen then quoted a passage from a book by two American visitors to Brazil which has found a prominent place in a recent prize-winning book on the subject (Carl Degler's *Neither Black Nor White: Slavery and Race Relations in Brazil and the United States* [New York: Macmillan, 1971], page 74): "Until 1850, when the slave-trade was effectually put down, it was considered cheaper on the country plantations to use up a slave in five or seven years and purchase another, than to take care of him. This I had in the interior from native Brazilians, and my own observation has confirmed it."

Owen's heritage of benevolence prevented him from accepting completely the evil implications of the second factor:

As to the second influence, growing out of the temptation gradually to work to death laborers who can be replaced any day by fresh purchases, it is hard to believe that it should have exerted over human cupidity so terrible a sway as to cause the reduction to seven and a half millions of men of a population which, had they been treated and had they thriven but as well as the slaves of the United States, would have numbered to-day ninety-eight millions of souls.

Owen was aware that another factor, the "habitual absenteeism of many of the proprietors" of plantations in the West Indies, left the slaves "at the mercy of overseers, often uncultivated and mercenary, who had no interest in their preservation so long as those who died could be profitably replaced by what were called 'new negroes.'" Overseers were most often unmarried men who knew little about caring for pregnant females.

Almost in desperation, Owen suggested that climate might explain the differences in the experience of slave populations. He had to admit, however, that "there is no evidence to show that the climate of the West Indies and of Brazil is less suited, or more fatal, to the negro than that of our Slave States." The most recent writers on the subject, Fogel and Engerman in *Time on the Cross*, have been forced to practically the same speculations. "To Americans who have a penchant for finding the silver linings of clouds," say Fogel and Engerman, "it is tempting to cast the explanation in terms of the relative humaneness of the treatment of slaves in the U.S. colonies." Fogel and Engerman, however, suggest the importance of the role of the "epidemiological environment" of the West Indies, where "Malaria, yellow fever, tetanus, dysentery, smallpox, and a score of other diseases were more widespread and more virulent" than in temperate climates. They also stress the disproportionately high male population in a culture that fed on the slave trade rather than on natural increase, but they do not delve as deeply as Owen on this point. That nineteenth-century student of the slave trade quoted evidence from traders that female slaves were readily available, and he did not fail to identify the cruelty of a deliberate imbalance in sexual make-up of the population.

In the end, Owen simply threw up his hands in despair: "Upon the whole, however, it must be confessed that, while the general facts in this case are indisputable, the explanations we have so far suggested seem inadequate to account for the extraordinary results we have disclosed." Owen should

not be condemned for his indecisiveness on the meaning of his population estimates. Modern authorities still disagree. Carl Degler maintains that the figures show the peculiar benevolence of the United States's peculiar institution. Fogel and Engerman call Degler's reasoning an optimistic search for silver linings and then further confuse matters by arguing in the rest of their own book that many of the evils the abolitionists denounced—disruption of the family, slave breeding farms, inefficient labor—were exceptions to the statistical rule for American Negro slavery.

Moreover, Owen had an immediate political—almost military—reason not to find any silver linings in the cloud of American slavery. He grudgingly granted "success in this country, so far as the mere physical increase of the slave population can attest the fact," but "no further."

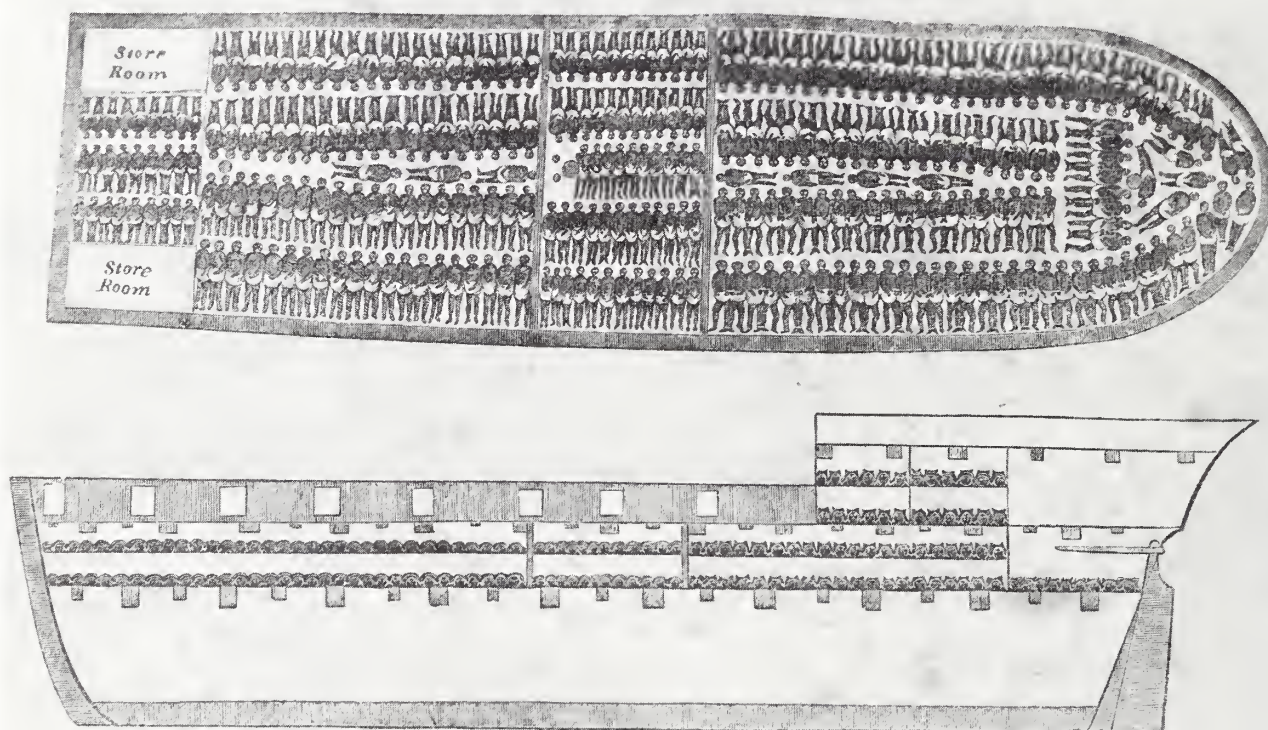
... population has increased in the world in spite of ceaseless wars, in spite of constant vice and misery. It increased in famine-stricken Ireland. It increased in England throughout the term of that feudal system which made of the island one great military camp. It increased in France throughout the centuries of that old régime of which the insufferable iniquities were at last requited by popular vengeance and culminated in the first Revolution.

Owen was an employee of the War Department. He had every reason, therefore, not to publish anything that could be construed as an apologia for the Confederate cause. It is a credit

to the independence of his intellect that he did publish the results of his research into black history.

Owen's intellect has not been much celebrated to date. His biographer, Leopold, says that he did not have "a strikingly original mind." McPherson repeats the charge in his treatment of the reports of the American Freedmen's Inquiry Commission. He treats Owen's work as a mere distillation of "the results of thirty years of abolitionist research and reflection." John G. Sproat wrote a twenty page article on the report in the *Journal of Southern History* in 1957, but he, like Leopold and McPherson, ignored Owen's treatment of the slave trade and characterized the report as standard Radical Republican fare. George Fredrickson in *The Black Image in the White Mind* (New York: Harper & Row, 1971) also treats Owen's work as the distillation of a standard view of the black man in America.

Whether historians have underestimated Owen's intellect or not, they have certainly underestimated the complexity of his view of *The Wrong of Slavery and the Right of Emancipation*. He stubbornly published what his diligent historical research revealed, even though the results of that research somewhat undermined his case for emancipation and war. Owen truly lived up to Abraham Lincoln's appraisal of him (in a letter to James W. Ripley on June 22, 1861) as "an intelligent [sic], disinterested, and patriotic gentleman."



DECKS OF A SLAVE SHIP

From the Lincoln National Life Foundation

FIGURE 3. This diagram of the lay-out of a slave ship was published in W.O. Blake's *History of Slavery and the Slave Trade, Ancient and Modern* (Columbus, Ohio: H. Miller, 1860). Quoting heavily from the "Report of the Lords of the Committee of Council, appointed for the consideration of . . . the present state of the trade to Africa," (1789), Owen recounted the horrors of the African slave trade. One slave captain, "seventeen years in the slave trade," said a fair average of the width allotted each slave on his decks was 14 2/3 inches. Other estimates ranged as high as 16 inches. Owen himself estimated one captain's allotment at just 12 1/2 inches.

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